



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,872	08/30/2001	Robert R. Wampler	38190/233787	9504

826 7590 04/23/2004

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER

PEREZ DAPLE, AARON C

ART UNIT	PAPER NUMBER
----------	--------------

2121

DATE MAILED: 04/23/2004

8

Please find below and/or attached an Office communication concerning this application or proceeding.

5

Advisory Action

Application No.

09/942,872

Applicant(s)

WAMPLER, ROBERT R. 

Examiner

Aaron Perez-Daple

Art Unit

2121

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 April 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-21.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
10. ☐ Other: See continuation sheet.


Anthony Knight
Supervisory Patent Examiner
Group 3800

- 4 The crux of the argument is Applicant's assertion that Kato does not teach or suggest "extracting process information from electronic simulation information." The Examiner respectfully disagrees. The terms "process information" and "electronic simulation information" do not have a standard meaning in the art. Although Applicant argues for a specific interpretation of the terms, the specification does not limit the terms to this interpretation. Because the specification does not provide clear definitions for the terms, the broadest reasonable interpretation consistent with the specification includes the interpretation presented by the Examiner in the Final Rejection, paper no. 6 [see MPEP 2111.01]. Applicant is reminded that limitations from the specification may not be read into the claims.

Applicant further asserts that the Examiner's interpretation of the terms "process information" and "electronic simulation information" is not consistent with the plain meaning of the terms. The Examiner respectfully disagrees. Merriam-Webster Online (visited 4/12/004) <<http://www.m-w.com/cgi-bin/dictionary?book=Dictionary&va=simulation>> further defines "simulation" as examination of a problem often not subject to direct experimentation by means of a simulating device. Thus, under the Examiner's interpretation, the problem being examined is the design or fabrication of a machined-piece. The simulating device is the CAD/CAM software.

For the reasons above, the Examiner finds that claims 1-21 have been properly rejected under 35 USC 102 and 103, as previously presented in Final Rejection, paper no. 6.